

SUPERIOR COURT OF CALIFORNIA

County of San Diego

DATE: April 19, 2005

DEPT. 71

REPORTER: Peter Stewart
CSR#: 3184

**HON. RONALD S. PRAGER,
JUDGE PRESIDING**

REPORTER'S ADDRESS:
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CLERK: K. Sandoval

BAILIFF: E. Rodriguez

Judicial Council
Coordination Proceedings
No. JCCP 4042

Coordination Proceeding
Title [Rule 1550(b)]
TOBACCO CASES II

TENTATIVE RULING:

The Motion of Plaintiffs for Reconsideration of the Court's March 7, 2005, Final Order Decertifying the Class, is DENIED. (CCP section 1008)

The Court finds Plaintiffs failed to comply with the procedural requirements of section 1008 since the motion is not based on new or different law, facts or circumstances. The Court is unpersuaded that the effects of Proposition 64 and the litigation surrounding it constitute "new law."

Assuming arguendo, that Plaintiffs had complied with the procedural requirements of section 1008, the Court would not decide the matter any differently.

The issue underlying Defendants' motion to decertify the class, was the retroactive effect of Proposition 64 and how the standing requirement effected the posture of the action. Proposition 64 eliminated the right of a private person to prosecute a UCL claim in the interest of the general public without satisfying the requirements of CCP section 382.

Significantly, the Court previously determined that class treatment in this matter was inappropriate for Plaintiffs then alleged CLRA claims because, contained in the CLRA, were specific standing requirements that would make individual issues dominant in a class action. As the Court has now decided the Plaintiffs have no right to continue prosecuting this lawsuit on behalf of the public unless they meet the procedural standing requirements imposed by Proposition 64, and section 382,

the remaining UCL claims similarly do not merit class treatment because individual issues will predominate.

As it is now settled that Proposition 64 applies to pending cases, decertifying the class at this time, is consistent with the history of this action and class issues related to Plaintiffs' original CLRA claims.